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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
c/o [REDACTED] & [REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/171465

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 14, 2016, under Wis. Stat., §49.45(5), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) authorization for personal care worker (PCW) services, a hearing was held on March 9, 2016, at Madison, Wisconsin, with the petitioner appearing by telephone. A hearing set for March 2, 2016 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly determined PCW hours.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
c/o [REDACTED] & [REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Written submission of [REDACTED], Nurse Consultant

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 13-year-old resident of Shawano County who receives MA.
2. Petitioner has Down syndrome. Due to cognitive delays, low tone, and limited endurance he requires assistance with activities of daily living. He is home schooled, and his parents both work outside the home. His adult sister, who does not reside in the home, acts as his teacher and caregiver.

3. On December 1, 2015, [REDACTED] requested prior authorization for 17.5 hours per week PCW services, PA no. [REDACTED]. By a letter dated January 5, 2016, the DHCAA approved 11.75 hours per week. After this appeal was filed, the DHCAA reviewed additional information provided concerning petitioner's toileting and agreed to add more time for that task; the DHCAA increased weekly PCW time to 13.25 hours per week.
4. Petitioner requires assistance with bathing, dressing, grooming, and toileting. The DHCAA has approved maximum time for those tasks. It also approved over 2½ hours per week for services incidental to the tasks, which includes meal preparation time.
5. Petitioner has an exercise routine but assistance with it is not a covered PCW service because the routine involves therapy exercises, not range of motion.

### DISCUSSION

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3.

The DHCAA now utilizes a Personal Care Screening Tool, a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the DHCAA's reviewer can then adjust to account for variables missing from the screening tool's calculations.

As noted, petitioner does not have physical deficits that directly affect his ability to care for himself. He does have some difficulty with endurance and motor skills, but he is able to walk, transfer, and feed himself.

The DHCAA approved maximum time for bathing, dressing, grooming, and toileting. Petitioner's mother and sister testified at the hearing that petitioner actually requires more time for toileting because he has accidents frequently, sometime going through six pair of underwear in a day. The problem is that the

screening tools for both personal care and general longer term care make no mention of incontinence. I cannot approve more time without documentation to support the additional time.

There was testimony that petitioner requires skin care. Again, there is nothing in the documentation to support the need for skin care, and the PCW orders do not mention skin care.

There was testimony that petitioner requires more than usual set up for meals. For example his meat needs to be cut up into small portions. However, Department policy provides that time can be given only if the person needs hands on assistance to eat.

There was testimony about the need to oversee petitioner's medications closely. However, the PCW orders do not include medication administration as a PCW task.

Finally, there was testimony that petitioner's sister helps him with his exercise routine. However, it is not a range of motion routine but general strengthening. Such exercises are considered to be therapy and are not covered PCW services. See Wis. Admin. Code, §DHS 107.112(4)(h).

The DHCAA approved time for tasks requiring hands on assistance. I do not find a basis for increasing the time over what already has been approved.

### **CONCLUSIONS OF LAW**

The DHCAA correctly determined petitioner's PCW needs in approving 13.25 hours per week.

**THEREFORE, it is** **ORDERED**

That the petition for review is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 18th day of March, 2016

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 18, 2016.

Division of Health Care Access and Accountability